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NEIL K. NYDEGGER		EXAMINER		
NYDEGGER & ASSOCIATES		SURVILLO, OLEG		
348 Olive Street		ART UNIT		
San Diego, CA 92103		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/637,119

Applicant(s)

APOTOVSKY, BORIS

Examiner

OLEG SURVILLO

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claims 1-7 remain pending in the application. Claim 1 is currently amended. Claims 8-20 have been canceled. No new claims have been added.

### ***Response to Arguments***

2. With regard to the Applicant's remarks filed on October 1, 2007:

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new grounds of rejection.

### ***Specification***

3. The specification is objected to under 37.CFR 1.75(d)(1) as failing to provide a clear support or antecedent basis in the description for the terms and phrases used in the claims so that the meaning of the terms may be ascertainable by reference to the description. In particular, among other elements:

as to claim 1, "a source communicator"; as to claim 3, "an error correction module"; as to claim 4, "a Help/Request/Task module"; as to claim 5, "a Survey module".

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 4, limitations: "means for accessing", "means for approving", "means for tracking", and "means for updating" are interpreted to invoke 35 USC 112, sixth paragraph because each means-plus-function limitation recites a function to be performed rather than definite structure or materials for performing that function.

The current specification fails to identify the corresponding structure that performs the claimed function. Therefore, a Help/Request/Task module comprising means for accessing a predetermined entity of the service provider, means for accessing a predetermined entity of the customer, means for approving and forwarding information from one said entity to another said entity, means for tracking and managing the performance of the specific task, and means for updating the collected information is ambiguous since it is unclear as to what the corresponding structure or material or equivalent thereof might be.

As to claim 5, limitations: "means for analyzing", "means for combining", and "means for defining" are interpreted to invoke 35 USC 112, sixth paragraph because each means-plus-function limitation recites a function to be performed rather than definite structure or materials for performing that function.

The current specification fails to identify the corresponding structure that performs the claimed function. Therefore, a Survey module comprising means for analyzing the collected information in said plurality of databases over a defined time

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period, means for combining and comparing the collected information, and means for defining a set of criteria for evaluating the collected information is ambiguous since it is unclear as to what the corresponding structure or material or equivalent thereof might be.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Katz et al. (US 2002/0174000 A1).

As to claim 1, the preamble has been given patentable weight since the claim body refers back to the preamble. See "the client" at line 7 and "the service provider" at line 9 of the claim body.

As to claim 1, Katz shows a system for establishing communications between a client and a service provider [Value Chain Intelligence (VCI) system] (par. [0010]), which comprises:

a plurality of databases for respectively storing collected information [internal and external data collection components] (par. [0011] lines 11-14);

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a base facility [VCI] (Fig. 6);

a communicator at the base facility [a customizable user interface] (par. [0183]; Fig. 6) for integrating a plurality of disparate modules with each other, wherein each said module has a dedicated database (par. [0019], [0068], Fig. 5) and is integrated with other said databases in said plurality of databases (par. [0012]-[0013]) for consolidation of interactive information and collective use thereof by the client [company or enterprise] (par. [0039] lines 3-9; par. [0046]) when performing a specified task [analyzing both enterprise data and market data for risks and opportunities] (par. [0008], [0045]); and

a source communicator [the communicator] for use by the service provider when communicating with the client through one said module for performance of the specified task (par. [0039]; [0183]).

As to claim 2, Katz shows the system wherein said plurality of modules comprises:

at least one information and communication module for managing and analyzing the performance of the specified task (par. [0054]-[0057]); and

at least one support module for expediting and verifying the implementation of the specified task (par. [0061]-[0065]).

As to claim 3, Katz shows an error correction module having an error database (par. [0168]).

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As to claim 4, Katz shows the system wherein one said information and communication module is a Help/Request/Task module [strategic component identification module] (par. [0153]) comprising:

- a means for accessing a predetermined entity of the service provider;
- a means for accessing a predetermined entity of the customer;
- a means for approving and forwarding information from one said entity to another said entity;
- a means for tracking and managing the performance of the specific task; and
- a means for updating the collected information (par. [0166]; Figs. 5 and 6).

As to claim 5, Katz shows the system wherein one said support module is a Survey module [BOM optimization module] (par. [0169]) comprising:

- a means for analyzing the collected information in said plurality of databases over a defined time period;
- a means for combining and comparing the collected information; and
- a means for defining a set of criteria for evaluating the collected information (par. [0053]).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katz et al.

As to claim 6, Katz shows the system wherein said set of criteria comprises a plurality of categories for evaluating the collected information (par. [0053]).

Katz does not specifically show each of client categories, comment categories, survey categories, number of occurrences, number of occurrences per client category, and number of occurrences per survey category.

However, it would have been an obvious matter of design choice to have these particular categories as the set of criteria for evaluating the collected information.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Katz by having the set of criteria comprising client categories, comment categories, survey categories, number of occurrences, number of occurrences per client category, and number of occurrences per survey category in order to perform analysis of collected data based on these specific categories.

As to claim 7, Katz shows that the system includes a plurality of databases (Figs. 3A and 3B).

Katz does not specifically show each of service provider performance database, client satisfaction database, maintenance database, and best practices database.

However, it would have been an obvious matter of design choice to have these particular databases as a part of the system.



It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Katz by having each of service provider performance database, client satisfaction database, maintenance database, best practices database, and error database in order to store corresponding data in each of databases, wherein this data may be used by the VCI system to enable the enterprise to more timely make improved strategic decisions (par. [0043]).

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLEG SURVILLO whose telephone number is (571)272-9691. The examiner can normally be reached on M-Th 8:30am - 6:00pm; F 8:30am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner: Oleg Survillo

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ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER